IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 25652 of 2007(D)

PETITIONER:

K.C.MANOJKUMAR,
BICY NIVAS, OPP.MARICKA VASAGAN HOSPITAL,
CHANTRAPURAM, PALGHAT DISTRICT.

BY ADV. SRI.R.SANTHOSH BABU
SRI.K.N.CHATHUKUTTY

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.

2. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES CHECK POST, WALAYAR,
PALGHAT DISTRICT.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
PALGHAT.

4. THE CHECK POST OFFICER,
COMMERCIAL TAXES CHECK POST,
WALAYAR, PALGHAT.

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON 07/12/2007 DELIVERED THE FOLLOWING:

WPC NO.25652/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF COVERING LETTER AND AUTHORIZATIONS COMMUNICATED TO THE CHECK POST AUTHORITIES.

//TRUE COPY//

P.A. TO JUDGE

ANTONY DOMINIC, J.
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W.P.(C) NO. 25652 OF 2007 D
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Dated this the 7th day of December, 2007

J U D G M E N T

Petitioner claims to be an authorised agent of various assessees acting on the strength of Ext. P1. It is stated that he is not permitted to act as the authorised agent of his principals and therefore this writ petition has been filed for direction to the respondents to permit the petitioner to work as the authorised representative of the concerns whom he represents at the Walayar Check Post. The petitioner relies on Section 47(2) and 47(9), which recognises the right of an assessee to be represented by an authorised representative.

2. On the other hand, the learned Government pleader on instructions submits that it is only in terms of Section 86 of the KVAT Act that an authorised representative can be permitted for the purpose of the said Act. Section 86 provides that any person who is entitled or required to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority by the

persons enumerated therein including a person duly authorized by him in writing in that behalf. The explanation provides that authorisation referred to in Sub Section (1) shall be in such form accompanied by such fee as may be prescribed. Form 27 is the relevant form prescribed under the Rules in this behalf.

3. A combined reading of Section 86 and the contents of form 27 leads me to think that the authorisation contemplated in Section 86 is the authority conferred on a person to appear in a proceedings under the Act which means the proceedings involving determination of rights of the parties to a dispute as contemplated in the Act. This does not take in the case of an agent or a representative who is appearing before the Commercial Tax Officer available in a checkpost. Therefore, I am not prepared to accept the contention of the learned Government Pleader that those who come within the ambit of Section 86 and that too having authorisation in form 27 alone can be allowed to be an authorised representative for all purposes. The stand taken by the respondents in this behalf has to be held illegal.

4. Accordingly, I dispose of this writ petition directing that the petitioner will be permitted to represent the concerns mentioned in Ext.P1 at the Walayar Check Post.

Writ petition is disposed of.

ANTONY DOMINIC, JUDGE.

Rp